

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Sherry Moreland,

Plaintiff,

Case No. 1:19-cv-04255

v.

Comcast Cable Communications,
LLC,

Michael L. Brown
United States District Judge

Defendant.

_____ /

ORDER

Plaintiff Sherry Moreland originally filed this action against Defendant Comcast Cable Communications, LLC, in the State Court of Gwinnett County, alleging violations of the Fair Debt Collection Practices Act (“FDCPA”), the Fair Credit Reporting Act (“FCRA”), and the Georgia state law. (Dkt. 1-1 at 2.) Defendant moved to dismiss. (Dkt. 4.) The Magistrate Judge issued a Report and Recommendation (“R&R”), recommending the dismissal of some claims and the remand of others. (Dkt. 17 at 14.)

When, as here, a party files no objections to a magistrate judge's recommendation, a court reviews the record for plain error. *See United States v. Slay*, 714 F.2d 1093, 1095 (11th Cir. 1983) (per curiam). After doing so, the Court finds no error in the Magistrate Judge's recommendation that Defendant's motion to dismiss must be granted because Plaintiff's complaint fails to allege the necessary elements of a FDCPA claim. Plaintiff's complaint fails to allege that Defendant is a "debt collector" as required by the statute and thus the claim is legally insufficient.

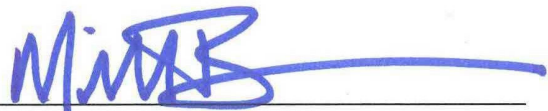
The Court likewise agrees with the R&R's conclusion that the Fair Credit Reporting Act preempts Plaintiff's remaining claims, to the extent that they rely on allegations of Defendant's allegedly false reporting to consumer reporting agencies. Finding no clear error in the Magistrate Judge's conclusions, the Court agrees that a state court should decide the merits of Plaintiff's remaining claims, as they are questions of state-law statute of limitations for purely state-law substantive claims.

The Court **ADOPTS** the Magistrate Judge's Report and Recommendation (Dkt. 17). The Court **GRANTS IN PART** and **DENIES IN PART** Defendant Comcast Cable Communications, LLC's

Motion to Dismiss (Dkt. 4). The Court **DISMISSES WITH PREJUDICE** Counts II (FDCPA) and IV (Defamation) in their entirety and **DISMISSES** Counts I (Georgia Fair Business Practices Act) and III (Negligence) to the extent that they reflect Defendant's reporting of information to credit reporting agencies.

The Court **REMANDS** Counts I and III, to the extent premised on conduct not otherwise preempted by the FCRA, to the State Court of Gwinnett County.

SO ORDERED this 27th day of April, 2020.



MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE